REMARKS

Claims **1-29** are pending in the application.

Claims **1-29** stand rejected.

Claims **1, 12, 21** and **29** have been amended.

Phone Interview – April 21, 2005

The undersigned wishes to acknowledge the telephone interview conducted on April 21, 2005, and to thank Examiner Elallam for his insight and for affording the undersigned an opportunity to discuss Applicant's claimed invention. The undersigned believes that the amendments and remarks in this paper are in harmony with the positions expressed during the interview.

Rejection of Claims under 35 U.S.C. § 103: Lu in view of Takatori

Claims 1-3, 5, 6, and 8 stand rejected under 35 U.S.C §103(a) as being unpatentable over Lu, U.S. Patent No. 5,412,652 (Lu) in view of Takatori et al., U.S. Patent No. 5,550,805 (Takatori).

Claim 4 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Lu in view of Takatori and further in view of Nemoto, U.S. Patent No. 5,506,833 (Nemoto).

Claim 7 stands rejected under 35 U.S.C §103(a) as being unpatentable over Lu, U.S. Patent No. 5,412,652 (Lu) in view of Takatori et al., U.S. Patent No. 5,550,805 (Takatori) and further in view of Shah, et al., U.S. Patent No. 5,646,936 (Shah).

Claims 9-11 stand rejected under 35 U.S.C §103(a) as being unpatentable over Lu, U.S. Patent No. 5,412,652 (Lu) in view of Takatori et al., U.S. Patent No. 5,550,805 (Takatori) and further in view of Shioda, et al., U.S. Patent No. 5,537,393 (Shioda).

With respect to the references cited, Applicant submits that Lu, in view of Takatori, fails to show, teach or suggest "restoring the transmittal of protect channel data, wherein the restoring includes: applying a mesh restoration protocol to the communications network to restore the transmittal of the protect channel data on a channel other than the protect channel," as recited in claim 1.

Lu discloses ring tables that minimize the number of protection channels needed to implement a restoration of normal traffic; however, the "extra traffic must be dropped" on a minimum number of protect channels (the protect channels used in the restoration of the normal traffic). (column 13, lines 1-8). Therefore, the extra data that was being transmitted on the protect channel at the time of the transmission failure is preempted and dropped, and would not be available for restoration.

Furthermore, restoring the normal traffic does not include restoring the extra traffic, which is apparent in light of the distinction Lu makes between normal traffic and extra traffic: "Protection channels are used for restoring normal traffic when a node failure or fiber cut occurs. Otherwise, the protection channels do not carry normal traffic, but they may carry extra traffic." (column 8, lines 30-35). Therefore, Lu does not show, teach or suggest "restoring the transmittal of protect channel data," as recited in claim 1.

Applicant does not concede that Lu discloses the restoration of the transmittal of extra data that was preempted; however, Applicant submits that if even if Lu did suggest the restoration of the transmittal of the extra data, such a restoration would not "restore the transmittal of the protect channel data on a channel other than the protect channel," as recited in claim 1. Lu states that "extra traffic is not protected." (column 8, lines 35-40).

Instead of protecting extra traffic, Lu preempts and drops the extra traffic. Thus, the extra traffic of Lu is not protected (by a mesh protocol or any other protocol), nor is Lu's extra traffic restored by transmitting it over channels other than the protect channel. Clearly, Lu does not show, teach or suggest the limitations recited in claim 1.

Takatori does not remedy the foregoing deficiencies of Lu. Takatori discloses a network with spare capacity that is used to carry working data when the working capacity experiences a transmission failure; otherwise, the spare capacity does not usually transmit data. (column 2, lines 5-7). Because the spare capacity does not usually carry extra data, Takatori could not be expected to, and in fact, does not show, teach or suggest the need to restore data being transmitted on the spare capacity. Therefore, neither Takatori nor Lu shows, teaches, or suggests "restoring the transmittal of protect channel data, wherein the restoring includes: applying a mesh restoration protocol to the communications network to restore the transmittal of the protect channel data," as claimed in claim 1.

In light of the foregoing discussion, Applicant respectfully submits that claim 1 clearly distinguishes over Lu, taken alone or in any permissible combination with Takatori. Applicant therefore respectfully submits that independent claim 1, as well as claims 2-11, which depend on claim 1, are allowable for at least the foregoing reasons. Accordingly, Applicant respectfully submits that claims 1-11 are in condition for allowance.

Rejection of Claims under 35 U.S.C. § 103: Shioda in view of Takatori

Claims 12-18, 20-25 and 27-29 stand rejected under 35 U.S.C §103(a) as being unpatentable over Shioda, et al., U.S. Patent No. 5,537,393 (Shioda) in view of Takatori et al., U.S. Patent No. 5,550,805 (Takatori).

Claims 19 and 26 stand rejected under 35 U.S.C §103(a) as being unpatentable over Shioda, et al., U.S. Patent No. 5,537,393 (Shioda) in view of Takatori et al., U.S. Patent No. 5,550,805 (Takatori) and further in view of Shah, et al., U.S. Patent No. 5,646,936 (Shah).

Applicant submits that Shioda, in view of Takatori, fails to show, teach or suggest "the restoration of protect channel data restores the protect channel data on a channel other than the protect channel," as recited in claim 12.

According to Shioda, a double transmission failure causes a protect channel to be erroneously connected to a working channel, thus transmitting protect channel data down the working channel. (see Fig. 2 and corresponding disclosure). As a result, the protect channel data is transmitted to the wrong destination. Applicant submits that an erroneous channel connection resulting in protect channel data being sent to the wrong destination is not a restoration of the protect channel data. When data is restored after a network transmission failure, the restoration performed results in the data being transmitted to the destination for which the data was originally destined. The operation referred to in Shioda, which is not a restoration, causes data to be transmitted to the wrong destination. Therefore, Shioda does not show, teach or suggest, nor is Shioda even capable of, the "restoration of protect channel data on a channel other than the protect channel" as claimed in claim 12.
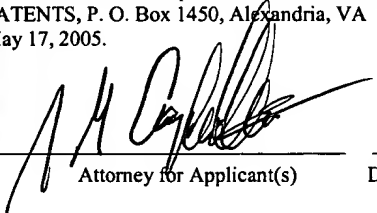
As previously mentioned, Takatori does not show, teach or suggest the restoration of protect channel data on a channel other than the protect channel. Accordingly, Applicant respectfully submits that claim 12 clearly distinguishes over Shioda, taken alone or in any permissible combination with Takatori. Applicant submits that these arguments apply with equal force to claims 21 and 29. Applicant therefore respectfully submits that independent claims 12, 21 and 29, as well as claims 13-20 and 22-28, which

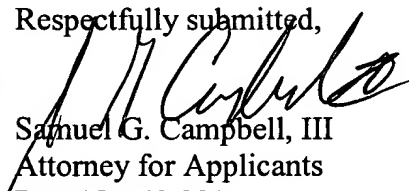depend on claims 12 and 21, are allowable for at least the foregoing reasons.

Accordingly, Applicant respectfully submits that claims 12-29 are in condition for allowance.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5084.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on May 17, 2005.

_____   5/17/05
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